

May 28, 2015 DISCUSSION DRAFT
Mr. Jeff Payne, Acting Director
Office of Coastal Management
National Oceanic and Atmospheric Administration

Mr. Dennis J. McLerran
Regional Administrator
U.S. Environmental Protection Agency
Re: Oregon's Coastal Nonpoint Program

Dear Mr. Payne and Mr. McLerran:

On January 30, 2015 your agencies determined that the State of Oregon has not submitted a fully-approvable coastal nonpoint source water quality program under Section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990. While acknowledging that Oregon had resolved many areas of concern (onsite disposal systems and new development), your agencies found that additional forestry management measures are needed to protect small- and medium-sized streams and landslide prone areas, and to address runoff from forest roads built prior to modern construction methods.

Commented [PC1]: Does not mention aerial application of pesticides.

Your letter invited further discussions between Oregon, NOAA and EPA regarding steps to achieve an approvable program. I am writing today to confirm that Oregon is committed to willing to continue working with NOAA and EPA to resolve the identified areas of concern. Oregonians care deeply about clean water, and I know that Oregon's forest land owners do as well. We believe we are on a trajectory to remove Oregon Coast coho from the federal threatened and endangered species list, and we know that water quality trends in a majority of the areas on the Oregon coast are and have been positive for the last twenty years. It is not acceptable to me, and I know it is not acceptable to Oregonians, that we are the only state in the U.S. with a disapproved coastal water quality program.

As you know, the Oregon Board of Forestry is well into an important rulemaking addressing the effects of forest operations on stream temperature. Under state and federal law, the Board of Forestry is required to establish best management practices and other rules applying to forest practices to insure that to the maximum extent practicable nonpoint source discharges of pollutants resulting from forest operations on forestlands do not impair the achievement and maintenance of water quality standards.

One element of Oregon's water quality standard for temperature is the "Protecting Cold Water" criterion (the "PCW"). The purpose of the PCW is to protect waters that are normally colder than biologically-based numeric standards – recognizing that a range of cold water habitats is important for sensitive fish as well as their eggs and young. Between 2002 and 2011, the Oregon Department of Forestry, in cooperation with forest landowners, conducted an

extensive peer-reviewed study of 33 sites on medium and small streams throughout the Coast Range, known as the “RipStream” study. That study found that harvests on private forest lands led, on average, to a ~~0.7-1.5~~ C (1.3 F) increase in stream temperatures on private lands. Increases ranged from 0 to 2.5 C (4.5 F). Based on this study and other evidence, in January 2012, the Oregon Board of Forestry determined that existing forest practice regulations do not insure to the maximum extent practicable that nonpoint sources of pollutants are not impairing the achievement and maintenance of water quality standards. As a result, the Board directed the Oregon Department of Forestry to begin the rule analysis required for revisions to riparian protection standards on small and medium fish streams.

The Board of Forestry and the Department of Forestry are working to complete this important rulemaking in a timely fashion. It is my expectation that this work will address many, but not all of the forestry-related issues that have been identified as needing additional forestry measures. ~~The other two issues include landslide-prone areas and older forest roads.~~ Oregon is ready to work, through a collaborative effort of the Oregon Department of Forestry, the Oregon Department of Fish and Wildlife, the Oregon Department of Environmental Quality, affected counties, and private landowners to develop or strengthen management measures that address these issues.

I expect that this important work can be completed in 2016 and 2017. Some aspects of the work will require new funding from the Oregon legislature and the development of new programmatic tools. Oregon likely will use at least some voluntary mechanisms, in combination with monitoring and regulatory backstops to assure that we achieve the clean water outcomes we all seek. In closing, Oregon has a history as a national leader in the protection of the environment. Our land, air and water programs were early models for many other states. I am committed to restoring our state’s position and protecting the resources all Oregonians treasure.

Commented [PC2]: There are three remaining issues not just two.